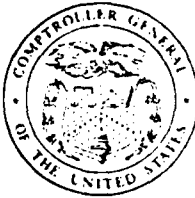


DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548

51068

FILE: B-184709

DATE: September 29, 1975

MATTER OF: Department of Agriculture-Forest Service
Request for Advance Decision

97398

DIGEST:

Certifying officer's request for advance decision concerning propriety of paying voucher representing refund awarded to contractor by Board of Forest Appeals based on appeal which arose under Disputes clause of contract is not for consideration by this Office since Supreme Court held in S & E Contractors v. United States, 406 U.S. 1 (1972), that Federal agency's settlement of claim under Disputes clause of contract is binding on Government, that there is not another tier of Federal or administrative review and that save for fraud or bad faith, agency's decision is final and conclusive.

By letter dated August 7, 1975, the Forest Service of the Department of Agriculture requested an advance decision whether a voucher representing a refund in the amount of \$67,482.28 awarded to The Wickes Corporation by the Board of Forest Appeals based on an appeal which arose under the Disputes clause of timber sale contract No. 003447 can be properly certified for payment.

In S & E Contractors v. United States, 406 U.S. 1 (1972), the Court held that, absent bad faith or fraud, a final agency settlement or decision, rendered under the Disputes clause, is not subject to further administrative review. In view of this decision, we no longer review Board of Contract Appeals decisions absent a showing of fraud or bad faith. Colmac Industries, Incorporated, B-182046, August 30, 1974, 74-2 CPD 136. We were informally advised by the Forest Service on September 3, 1975, that the appeal in the instant case was perfected under the Disputes clause of the contract. Since there is nothing in the record before us to indicate that fraud or bad faith is involved, there is no action we can take and we are returning to the certifying officer the original voucher in question.

A handwritten signature in cursive script, reading "Paul G. Dembling".
Paul G. Dembling
General Counsel